# Supreme Court of the United States.

DECEMBER TERM, 1866.

THE UNITED STATES,
*vs.*
ICHABOD L. QUIMBY. } No. 88.

This is a certificate of division of opinion from the circuit court for the eastern district of Michigan, presenting certain questions arising under the reciprocity treaty of September 9, 1854, between the United States and Great Britain. The questions are the same as those considered in the immediately preceding case of U. S. *v.* Hathaway, (No. 87,) though they arise in regard to a somewhat different article of manufacture, namely, "*split timber*" used in the manufacture of long *shovel handles.*

Much of the argument in the brief of the United States filed in No. 87 applies to the questions in the present case; and we refer to it in connection with the following additional remarks:

I.

The first question certified is, whether the timber described in the declaration and proof in this cause was liable to duty, or whether the same was free of duty, by the reciprocity treaty and the laws and acts of Congress relative thereto?

(1.) The timber referred to is described as "split

white ash timber," designed mostly to be used in the manufacture of the long shovel handle. They are described as *straight square pieces of timber* of one and three-fourths inches in thickness and four feet long, and are made into shovel handles by being turned in a lathe. The only process of manufacture through which they had passed was that of being *split* into the size and shape in which they were imported. It is said that "the splitting of said timber before its importation was no part of the process of manufacture of said *shovel handles*, but was a mode adopted for reducing the size and weight of the timber for convenience in removing the same from the place of its growth." The splitting is done by hand, while the manufacture of shovel handles is exclusively by machinery. They are, therefore, the raw material (so to speak) of the shovel handle.

Such being the character of the articles, we have to inquire—

(2.) Whether they were importable free of duty under the treaty of September 9, 1854, with Great Britain?

That treaty exempts from duty "*timber and lumber of all kinds, round, hewed, and sawed, unmanufactured in whole or in part.*" (10 Stat., 1091.)

These articles are not comprehended by the treaty, unless it should appear, 1st, that they are *timber* or *lumber;* 2d, that they are either *round*, *hewed*, or *sawed* timber or lumber; and, 3d, that they have not been subjected to any process of manufacture.

The second and third conditions are evidently not here fulfilled. The articles are not round, hewed, or *sawed*, but *split* timber; and they are also manufactured

articles, having been made by hand, and with a special design or purpose, into the shape and form in which they were imported. The process of splitting, though requiring the most common labor, is, we contend, a process of manufacture. It may be true that it constitutes no part of the manufacture of shovel handles. But the splitting has reduced round or hewed timber into articles of commerce, ready and fit for immediate conversion, by machinery and the employment of a higher art, into other articles of manufacture and commerce. This consideration is perhaps important, namely: that the object of splitting the timber in the manner described was to produce articles suited for the special use of manufacturers of shovel handles. They were not split and sold as mere lumber capable of being used for any purpose whatever; but they were split and sold for the particular use for which they were imported by the defendant.

Literally, anything to which the handiwork of man has been applied becomes *manufactured.* The older dictionaries (as Richardson's) confine the meaning of the word entirely to this conversion or character given by touch of hand. The word etymologically means made by hand; but we now largely give it also the sense of being made by machinery.

If the timber in question was manufactured, and, therefore, not exempt from duty under the reciprocity treaty, the next point is, whether it was subject to duty under the tariff laws?

The record states (page 1) that the suit was brought to recover the duties imposed by the 24th section of the act of March 2, 1861. (12 Stat., 196.) That

section embraces "all raw or unmanufactured articles" not in the act provided for, as well as "all articles manufactured in whole or in part" not in the act enumerated or provided for. The record does not state whether the suit was for the recovery of the duties payable upon the first or upon the second class of articles. If, however, the articles in question are not enumerated or provided for in other sections of the act, they are, being, according to the view just taken, manufactured articles, chargeable with a duty of 20 per cent. under the 24th section of the act of 1861.

It may be, however, that the articles are, within the meaning of the 22d section of the act, "manufactures of wood, or of which wood is the chief component part, not otherwise provided for," and as such liable to a duty of thirty per cent. (12 Stat., 192.)

In addition to the pertinent statutory provisions mentioned in the brief in No. 87, (p. 2,) we refer to section 11 of act of July 30, 1846, imposing a duty of 30 per cent. *ad valorem* on "manufactures of wood not otherwise provided for," (9 Stat., 45,) and to the act of March 3, 1857, sec. 1, which reduced to 24 per cent. ad valorem the duty on manufactures of wood. (11 Stat., 192.)

It thus sufficiently appears that the articles in question are embraced by one or more of the provisions mentioned or referred to as manufactures of wood.

In view of the foregoing, we contend that the court should certify its opinion that the timber described in this record was liable to duty by the reciprocity treaty and the acts of Congress.

II.

The second and third questions stated in the present certificate appear to be answered by the considerations mentioned in the brief in No. 87.

We contend that all *split* timber, whether manufactured or not, is not exempt from duty by the treaty of 1854. That treaty only embraces timber "round, hewed, or sawed." This is the view taken by the Treasury Department, as appears by the Regulations referred to on page 8 of the brief in No. 87.

If this view is correct, and the court should hold that the timber in question was *not* manufactured in whole or in part, it would be liable to duty of 10 per cent., under 24th section of the act of 1861, as a raw or unmanufactured article not enumerated or provided for in the statute, and not saved by the reciprocity treaty.

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